IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 25.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.861 of 2006

Baba @ Ramesh ... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The District Magistrate and
District Collector,
Vellore District, Vellore - 9. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records, related to petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 24.07.2006 on the file of the second respondent herein made in proceedings C3.D.O.No.64/2006, quash the same as illegal and consequently direct the respondents herein to produce the said petitioner namely Baba @ Ramesh before this Court and set the petitioner at liberty from detention, now detained in Central Prison, Vellore.

For Petitioner : Mr.C.C.Chellappan
For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Baba @ Ramesh, who is detained as a "Bootlegger" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders,

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Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 24.07.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner, by drawing our attention to the order of the learned Principal Sessions Judge, Vellore, dated 06.06.2006 made in Crl.M.P.No.4616/2006(bail application), has submitted that the detaining authority has pre-determined to detain the detenu under Act 14 of 1982, which vitiates the ultimate order of detention passed by him .

4. We have verified the order passed by the learned Principal Sessions Judge, Vellore, which is available at page No.48 of the paper book supplied to the detenu. The learned Judge, while passing the order in the bail application filed by the detenu, has mentioned that the learned Public Prosecutor has submitted that the police have already taken steps to detain him under Goondas Act. Based on the same, the bail application was dismissed on 06.06.2006, whereas the detention order was passed on 24.07.2006. As rightly pointed out by the learned counsel for the petitioner, the information passed on to the Court amply shows that the respondents have pre-determined to detain the detenu under Act 14 of 1982, which vitiates the ultimate detention order passed by the detaining authority. On this ground the detention order is liable to be quashed and accordingly, the same is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Secretary to Government, State of Tamil Nadu,
Prohibition and Excise Department, Fort St. George,
Chennai-600 009.

2.The District Magistrate and District Collector,
Vellore District, Vellore – 9.

3. The Superintendent, Central Prison, Vellore
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

AKM(CO)
NM(08.11.2006)

HCP. No.861 of 2006

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